

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL KISSICK,

Plaintiff,

v.

ORDER

13-cv-99-wmc

MICHAEL HUEBSCH, in his official capacity as Secretary of the Wisconsin Department of Administration, and DAVID ERWIN, in his official Capacity as the Chief of the Wisconsin Capitol Police,

Defendants.

The court is in receipt of defendant's motion to dismiss, adjourn or strike (dkt. #50), as well as the parties' briefs in support and opposition to that motion. While agreeing that the recent approval of amendments to Wis. Admin. Code ch. Adm. 2 ("Amended Administrative Rule") and revisions to the Department of Administration's Access Policy ("Revised Access Policy") may impact the outcome of this case, the court does not believe it substantially changes the thrust of plaintiff's constitutional challenge to the administrative rules and access policy or, at least, believes that plaintiff is entitled to proceed with a hearing on his motion for preliminary injunction to so argue.

Moreover, at most, defendants may be entitled to an order granting plaintiff leave to amend his complaint, not to dismissal of this case as moot.

Finally, defendants seek to strike plaintiff's reply brief, declarations and reply in support of plaintiff's proposed findings of fact. As set forth at the scheduling conference and in the court's subsequent order (dkt. # 17), plaintiff was granted leave to reply only to "new matters raised by defendants." Accordingly, the court will only consider those materials

meeting this criterion. Of course, both sides are free to provide such further reply as they deem appropriate during the course of tomorrow's hearing. Similarly, both sides are admonished to focus their argument and presentation of evidence, if any, *solely* on the Amended Administrative Rule and Revised Access Policy.

Entered this 16th day of April, 2013.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge